Petition

81-1316

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No.

In the

Supreme Court of the United States

OCTOBER TERM, 1981

ANABEL J. McCUTCHEON,

Petitioner,

vs.

CHICAGO BOARD OF EDUCATION,
MRS. CAREY B. PRESTON,
MARGE WILD,
HENRY McGEE,
MICHAEL J. MURRAY,
EARL B. HOFFENBERG,
JOSEPH P. HANNON,
NINA JONES,
JAMES MOFFAT,
BESSIE LAWRENCE,
WILLIAM ROHAN,
GERARD J. HEING,
MARIO GAROFALO,
THOMAS MORAN,

Respondents.

Appeal from the Illinois Supreme Court
Denial of Leave to Petition

PETITION FOR WRIT OF CERTIORARI

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The Scheffer Press, Inc.—(312) 263-6850

Oral Argument Requested

QUESTIONS PRESENTED FOR REVIEW

I Whether it is unconstitutional for the Chicago Board of Education to bring charges, pre-judged "irremediable" before an administrative hearing in which the same persons Chicago Board of Education sit in judgment on such charges when such procedure is not acceptable in any other school district against any other principal, tenured and certified in the State of Illinois.

II Whether it is unconstitutional for the Chicago Board of Education to bring charges for "conduct unbecoming a principal" and deprive the same tenured teacher of her job without notice, charges, or hearing required in any other school district against any other teacher tenured and certified in the State of Illinois.

III Whether the 3,000-page transcript of an administrative hearing and the long delay, 1977-1981 in the Chicago Circuit Courts deprived Petitioner of due process and adequate counsel.

Jurisdiction is involved under Title 28 U.S.C. §1257 — where is drawn in question the validity of the Statute 34-85, p. 9 in conflict with Statute 24-12, p. 10 and the Rules & Regulations Governing the Procedure for the Dismissal of Tenured Teachers in the State of Illinois, App. C.

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Comes Now, Anabel J. McCutcheon, Petitioner acting without Counsel on her own behalf and respectfully petitions this Honorable Court to review the constitutional issues left undecided by the ILLINOIS SUPREME COURT and certain federal courts, 1976-1981 in *McCutcheon* v. *The Chicago Board of Education, Joseph P. Hannon, Et. Al.* (#54963), for the reasons:

That without any review of the 3,000 page transcript of a year-long "hearing" and the pertinent dates maliciously suppressed by the Defendants, 5 years: the Justices of the lower courts failed to consider the merits of the cause of a 30-year TENURED teacher-principal and decided important state and federal questions in a way that is in conflict with the applicable decisions of the Illinois Supreme Court and other state courts:

Aulwurn v. Board of Education
Donahoo v. Bd. of Ed.
Fuentes v. Shevin
Grissom v. Bd. of Ed.
Hamilton v. Regents of University of California
Jones v. Hannon
Reinhardt v. Bd. of Ed.
Szirpan v. Bd. of Ed.
Wells v. Bd. of Ed.

and in conflict with the applicable decisions of the United States Supreme Court:

Butz v. Economu
Hampton v. Hanrahan
Hartrop v. Board of Junior College District
Gomez v. Toledo

That the Honorable Judge John A. Nordberg of the Cook County Circuit Court of Illinois reversed the decisions of the Illinois Supreme Court in *Aulwurn, Grissom,*

and *Jones*, supra on the misrepresentations of Defendants (that said teachers' firings were upheld by the Courts) to erroneously support the dismissal of Petitioner-Principal "from the service" (the army? dishonorable discharge?) of the Board of Education—six months before the same persons Board of Education were fired by the Illinois Legislature—and such firing was upheld by the Illinois Supreme Court in *Polich* v. *Chicago Finance Authority, supra* which imposed strict sanctions on Board Members, agents, officers, employees for their misuse of personnel, bankruptcy of $550,000,000 November, 1979.

Basing his decision on the above "Res Judicata" (in the Appellate Court for two full years) the Honorable Judge George N. Leighton of the United States District Court reversed the decisions of the U.S. Supreme Court in *Butz* v. *Economu, Hampton* v. *Hanrahan, Gomez* v. *Toledo* following further misrepresentations of Defendants and granted superintendents, Board members, janitors, teachers and all other complaining witnesses in Board Proceedings, #76-866-1 against Petitioner—"quasi-judicial immunity" denying Petitioner a public trial in the matter of her wrongful dismissal by the KANGAROO COURT of the Chicago Board of Education. That all the cases were wrongfully consolidated only to dismiss Defendants by the former City of Chicago Corporation Counsel, GEORGE N. LEIGHTON; in ex parte communications, Oct. 16-Nov. 3, 1978 before these cases were transferred to him;

United States District Court
Northern District of Illinois
Eastern Division

Name of Presiding Judge, Honorable George N. Leighton

Date November 30, 1979

Cause No.

78 C 3899 and consolidated cases 78 C, 78 C 3894, and 78 C 3955

Title of Cause

Anabel J. McCutcheon, vs. The Chicago Board of Education, et al

Brief Statement of Motion

Order, on motion of the court, vacating previous orders effecting consolidation of these cases.

The rules of this court required counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addressed of their attorneys. Please do this immediately below (separate lists may be appended).

* * *

Reserve space below for notations by minute clerk

On motion of the Court, it is ordered that all previous orders having the effect of consolidating these cases are vacated. Case No. 76 C 4763 will go to trial with only the remaining portion of the allegations as to the Board in 78 C 3894 consolidated as Count II hereof.

In the United States District Court
for the Northern District of Illinois
Eastern Division

ANABEL J. McCUTCHEON,

Plaintiff,

vs.

MRS. CAREY B. PRESTON, et al.,

Defendants.

[LOCKED DOORS OF HEARING ROOMS]*

78 C 3955

Before the Honorable George N. Leighton
United States District Judge

MEMORANDUM ORDER

Excerpt * * * defendants acted in a quasi-judicial capacity which renders them absolutely immune from plaintiff's claims. Plaintiff alleges that defendant Hannon, General Superintendent and chief administrative officer of the Chicago Board of Education suspended her from the position of school principal; that defendant Preston was Vice-President of the Board and Chairperson of the trial committee that heard the charges against plaintiff; and that defendant Hoffenberg was the attorney for the board who presented the charges and prosecuted them. She further alleges that on one or more occasions, contrary to law, the hearings of the charges against her were not public.* Plaintiff does not state any facts which, if true, would show in what way or manner she has been injured.

This court is constrained to agree with defendants that plaintiff's complaint does not state a claim on which

relief can be granted; and that more importantly, each defendant in this case is absolutely immune from plaintiff's suit since on the occasion in question they acted quasi-judicially. *Butz* v. *Economou,* 438 U.S. 478 (1978); see *Hampton* v. *Hanrahan,* 600 F. 2d 600, 631 (7th Cir. 1979); *Consumers U. of United* v. *American Bar Ass'n,* 470 F. Supp. 1055, 1059-60 (E.D. Va. 1979). Therefore, the motion to dismiss is sustained; this suit is dismissed.

So ordered

George N. Leighton, United States District Judge

Dated: November 26, 1979

Pursuant to the United States Supreme Court Rule, #17.1 Petitioner seeks a Writ of Certiorari because the state court of last resort has decided an important question of federal law not only in conflict with itself, other state courts, but in conflict with the applicable decisions of this Court.

OPINIONS BELOW

1. The Opinion rendered by Judge John A. Nordberg on October 22, 1979 is unpublished and is reprinted here, Appendix A, p. 1a: Administrative Review Judgment Order.

2. Decisional Authority, *Aulwurn* v. *Board of Education, supra* is published as cited herein, App. A-1, p. 5a. Judge John Nordberg reversed the decision of the Illinois Supreme Court in citing this case as an authority to uphold the Chicago Board of Education.

3. Decisional Authority, *Grissom* v. *Board of Education* is published as cited herein, App. A-3, p. 6a. Judge

John A. Nordberg reversed the decision of the Illinois Supreme Court in citing this case as an authority to uphold the Chicago Board of Education.

4. Decisional Authority, *Jones* v. *Hannon, Et. Al.* is published as cited herein and was not placed in reference by Defendants because all the courts to the U.S. Supreme Court upheld the return of Beulah Jones to her job, status, salary—after a three-year delay in which she was deprived of her means of a livelihood, 1976-1979 for a second time, being fired 1971-1974.

5. Other Decisional Authorities listed by Judge John A. Nordberg are not relevant to this case and were so discussed in Appellant's Brief and Argument before the Illinois Appellate Court, which ignored the merits of the case, dates involved that were misrepresented by Defendants.

6. The Opinion rendered by Judge George N. Leighton, U. S. District Court is unpublished and is reprinted here, p. 5. It reverses the decision of the U.S. Supreme Court, *Butz* v. *Economu, Hampton* v. *Hanrahan,* and *Gomez* v. *Toledo.*

7. The Opinion rendered by Judge Leighton also reverses *Fuentes* v. *Sherwin,* published 407 U.S. 67 (1972): "It is a violation of due process when one who makes a recommendation to dismiss is also considered "a quasi-judge" along with his attorney (EARL B. HOFFENBERG, specifically named by Judge Leighton) and complaining witnesses representatives" (specifically named in the complaints wrongfully consolidated before Judge Leighton by Defendant Private Attorneys, U.S. Supreme Court #80-724 81-147.

JURISDICTION

Jurisdiction is involved under Title 28 U.S.C. §1257, Section 2:

> § 1257. State courts; appeal; certiorari
>
> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

CONSTITUTIONAL PROVISIONS

U.S. Const. Amend. I: Freedom of Religion, Speech, and the Press

> "or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

United States Constitution, Amendment V: Guaranty of Trial By Jury; Private Property Respected:

> "nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

U.S. Const. Amend. VI: Rights of Accused Persons

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation;

to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. Const. Amend. XIV: Definition of Citizenship

"nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

ILLINOIS STATUTES

Ill. Rev. Stat. 1975, CH 122: 34-85. Removal for cause—Notice and hearing—Suspension.

No teacher or principal appointed by the board of education shall (after serving the probationary period of 3 years specified in Section 34—84) be removed except for cause and then only by a vote of a majority of all members of the board, upon written charges presented by the general superintendent of schools, to be heard by the board or a duly authorized committee thereof. Written notice of such charges shall be served upon the teacher or principal not less than 20 nor more than 30 days before the date of hearing. The hearing shall be held and the decision rendered within 80 days from the date of service of the notice; provided however, that continuances of said hearing granted at the request of the teacher or principal shall not be included in computing this 80 day period. The hearing shall be public at the request of either the teacher or the board. The teacher shall have the privilege of being present at the hearing, together with counsel, offering evidence and making defense to the charges. Before service of notice of charges on account of causes that may be deemed to be remediable, the teacher shall be given reasonable warning in writing, stating specifically the causes which, if not removed, may result in charges. The action and decision of the board as to the existence of reasons or causes for dismissal or removal

shall be final unless reviewed as provided in Section 34—85b of this Act. Pending the hearing of the charges, the person charged may be suspended in accordance with rules prescribed by the board but such person, if acquitted, shall not suffer any loss of salary by reason of the suspension. As amended by act approved Aug. 26, 1963. L. 1963, p. 3427.

§ 24-12. Removal or dismissal of teachers in contractual continued service.

If a dismissal or removal is sought for any other reason or cause, including those under Section 10-22.4, the board must first approve a motion containing specific charges by a majority vote of all its members. Unless the teacher within 10 days requests in writing of the board that no hearing be scheduled, the board shall schedule a hearing on those charges before a disinterested hearing officer on a date no less than 30 nor more than 60 days after the enactment of the motion. Written notice of such charges shall be served upon the teacher at least 21 days before the hearing date. Such notice shall contain a bill of particulars.

STATEMENT OF FACTS

1. On September 7, 1976 Principal-Petitioner was suspended without any specifications for "Conduct unbecoming a Principal" by Defendant former General Superintendent, JOSEPH P. HANNON (App. C-2, p. 21a)
2. She was also denied a job as a teacher on the same date for "conduct unbecoming a principal", without any specifications to date. (App. C-2, C-3, p. 21a, 22a)

3. On September 15, 1976 William Rohan and a member of the Chicago Board of Education Security Squad ("Goon Squad") attempted to force entrance to Plaintiff's 94-year old Aunt Marie McCutcheon's home at 2653 Stewart Avenue, Evanston: for the purpose of harassing

Petitioner, terrorizing a senior citizen, attorney, and former 30-year Chicago teacher.

4. JOSEPH P. HANNON's Attorney, EARL B. HOFFENBERG, also revealed his presence on the premises in the 3,000-page transcript, p. 1003 ff. (admitted by William Rohan, 180-lb District Three Superintendent vs. 80 lb. Marie McCutcheon)

5. September 16, 1976 Plaintiff received by certified mail the ten charges against her for alleged "conduct unbecoming a principal and failure to discharge her duties as a principal. (App. C-3, 22a)

6. September 27, 1976 $2675.00 in Audubon School Funds was removed from the Lakeview State Bank and Trust Company by John Kula, Assistant Principal on the order of William Rohan. Principal was charged with accounting for this money, Sept. 1977 by EARL B. HOFFENBERG. Charge #9, p. 23a.

7. Oct. 6, 1976 McCutcheon's Attorney, JOHN B. SCHWARTZ moved for the "trial" committee to: 1) appoint an impartial hearing officer 2) to produce names, addresses of witnesses, documents (reprinted in full, App. C-1, p. 17a)

Chairperson, MRS. CAREY B. PRESTON, Vice-President of the Board, named specifically in EEOC charges, 1974 TCH 5-00061 refused on all counts: "I know you should have the documents, Mr. Schwartz, but I don't want to give them to you."

8. "A" hearing of over 3,000 pages was held on the following dates and the complete transcript filed with the Clerk of the Circuit, Appellate Courts of Cook County:

1-62 October 6, 1976
Earl B. Hoffenberg-Petitioner

63-275 January 17, 1977
Earl B. Hoffenberg-Petitioner

276-436 January 28, 1977
Earl B. Hoffenberg-Petitioner

437-644 February 1, 1977
Earl B. Hoffenberg-Petitioner

645-853 February 8, 1977
Earl B. Hoffenberg-Petitioner

854-1044 February 11, 1977
Earl B. Hoffenberg-Petitioner

1045-1192 February 16, 1977
Earl B. Hoffenberg-Petitioner

1193-1305 September 12, 1977
Earl B. Hoffenberg-Petitioner

1305-1536 September 13, 1977
Earl B. Hoffenberg-Petitioner

1537-1622 September 15, 1977
Earl B. Hoffenberg-Petitioner

1623-1805 September 19, 1977
Earl B. Hoffenberg-Petitioner

1806-2010 September 20, 1977
Defense

2011-2238 September 21, 1977
Defense

2239-2468 September 23, 1977
Defense

2469-2844 September 26, 1977
Defense
4 p.m. - 7:30 p.m.
Earl B. Hoffenberg Cross-Exam of McCutcheon: Assisted by Board Attorney Kracjir

REASONS FOR GRANTING THIS WRIT

I. It Is Unconstitutiontal For The Chicago Board of Education To Bring Charges, Pre-judged "Irremediable" Before An Administrative Hearing In Which The Same Persons Chicago Board Of Education Sat In Judgment On Such Charges: When Such Procedure Is Not Acceptable In Any Other School District (Or Any Other State Or Federal Court) Against Any Other Principal, Tenured And Certified In The State Of Illinois. (App. C, C-1, pp. 9a, 17a)

"'Irremediable' must be reviewed by an independent hearing officer."

Hutchinson v. *Board of Education*, 32 Ill. App. 2d. 247, 177 N.E. 2d. 420 (1961).

Wells v. *Board of Education of Community Consolidated School District #64 Cook County*, 85 Ill. App. 2d 312, 230 N.E. 2d. (1967)

That charges (#1, 5) were REMEDIATED by the Petitioner standing trial April and August, 1976 and being acquitted before suspension-firing. Dates misrepresented or maliciously left out of the testimony before Judge John A. Nordberg, Oct. 3, 1979 Court Reporter's transcript.

That Petitioner's Attorneys put such a motion before the unqualified Board Committee Chairperson, Mrs. Carey B. Preston and was denied on all counts, Oct. 6, 1976 (App. C-2). That *Pro Se* Plaintiff-Appellant placed the "Rules and Regulations Governing the Procedure for Dismissal of Tenured Teachers in the State of Illinois." (App. C, p. 9a) before Judge Nordberg on Oct. 3, 1979 and in pamphlet form before the Illinois Appellate

Court Judges Linn, Romitti, and Jiganti, May 1, 1980— the date specific defendants were removed from office for misuse of personnel, funds.

II. It Is Unconstitutional For The Chicago Board of Education To Bring Charges For "Conduct Unbecoming A Principal" (App. C-2, 3, p. 17a-21a) And Deprive The Same Tenured Teacher Of Her Job Without Notice, Charges, Or Hearings Required In Any Other School District Against Any Other Teacher Tenured And Certified In The State Of Illinois.

"Tenured Teachers must have the maximum protection of the Tenure Laws."

Donahoo v. *Board of Education* (1953), 413 Ill. 422, 109 N.E. 2d 787.

Reinhardt v. *Board of Education* (1974), 19 Ill. App. 3d 481, 311 N.E. 2d 710.

Szirpan v. *Board of Education* (1975), 29 Ill. App. 3d 1047, 331 N.E. 2d 863.

That Petitioner had tenured service as a teacher from 1951-1977:

"*Rules of the Board of Education, City of Chicago*: Sec. 4-21:

(a) Certificate of Principal. Service on this certificate shall continue the validity of any certificate of any of the following groups which may be in force during the time of service as a principal. The holder of the certificate of principal shall be eligible for appointment to any position for which a teacher's certificate is required, provided he meets the specific requirements of that position."

That Petitioner had tenured service as a principal from 1963-1977: certificated on Dec. 8, 1961 by a nine-hour objective exam—3 hours being on school law called professional. That "American School Law" is required in Illinois for Bachelor's Degree in Educa-

tion. (How many attorneys—Judges of the Court—have even one question on school law to pass their Bar Exam?) How many have had one course in American School Law for their doctor of laws?)

Wherefore, Petitioner was deprived of her job as a teacher on Sept. 7, 1976 without notice, hearings, or charges in violation of State Statutes, #34-85. That said Defendants misrepresented the issues by presenting certain decisional authorities—*Gilliland, Fender, Rizzo, supra* Judge Nordberg's decision, App. A, p. 3a with no relevancy to Anabel J. McCutcheon.

Gilliland was a teacher, who was supervised and warned over a several year period: McCutcheon was a principal, fired without any specifications for ten days, Sept. 7-16, 1976, never supervised by JOSEPH P. HANNON, NINA JONES, JAMES MOFFAT—persons who had never been in her school and were making libelous charges (scanty and indecent clothing) from hearsay and criminal charges after her acquittal (#1, #5). *Fender* was a teacher fired for hitting children—not a charge against McCutcheon, who was charged for the first time on Oct. 1, 1979 for assault (damage to janitors) on Janitors—of which she had been acquitted, 1976-1977. Said janitors being overpaid by Joseph P. Hannon to perjure themselves in an administrative hearing. Thomas Moran, Jr. being on the payroll in the "ghost" position and salary of a janitor, dead for six months. *Rizzo* was misrepresented as being criminally acquitted AFTER the agency's administrative hearing—in which said fire department had jurisdiction. However, Petitioner charges that the Board of Education laymen Committee had no jurisdiction to try Petitioner a second time, on criminal charges of which she had been acquitted: denying her her constitutional rights of a jury trial, confrontation with wit-

nesses, and the right to fully cross-exam complaining witnesses. That the dates of her acquittal were deliberately misrepresented by Earl B. Hoffenberg, Joseph P. Hannon, complaining witnesses for five years, 1976-1981, who were granted absolute immunity by the former City of Chicago Corporation Counsel, George N. Leighton. [78 C 3955 p. 4-5]

III. The 3,000 Page Transcript Maliciously Invented By Defendants In A 16 Session, Year-Long "Hearing" (Earl B. Hoffenberg) And The 3-Year Delay In The Appellate Court Deprived Petitioner Of Due Process And Adequate Counsel. She was Unable To Pay Trial Court Fees For An Administrative Hearing Of 395 Days Limited By Statute To 80-Days. (Ill. Rev. Stat., 1975: §34-85, p. 9).

That another former City of Chicago Corporation Counsel, Judge Richard L. Curry, dismissed Petitioner's attorneys, Nov. 6, 1978 denying her the right to speak against said dismissal after paying them $16,000 specifically to go to trial—at the same time Nov. 3, 1978 that former City of Chicago Corporation Counsel, Judge George N. Leighton, dismissed the same attorneys after denying her the right to speak against their dismissal—having paid them another $18,000 to go to trial EEOC 76 C 4763 which he wrongfully consolidated on Nov. 3, 1978 with the two year old Title VII suit.

That Judge Richard L. Curry demanded an "Abstract" on the motion of the Defendants on Nov. 6, 1978 after dismissing her attorneys. Subsequently, the other three Judges Wolfson, Higgins, Nordberg failed to accept said "Abstract" ordered by Judge Curry, delaying the trial-hearing a full two years. That said Judges Wolfson, Higgins, Nordberg alleged they would read the whole 3,000

page transcript, which was not done by any Judge—denying Petitioner due process of ruling on the MERITS of her case—and ruling on ex parte communications.

That Judge Nordberg alleges to have read the transcript, but had *no* knowledge that *no notice, charges* or *hearing* was held for Petitioner before she was fired as a teacher, Sept. 7, 1976: "for conduct unbecoming a principal."

That although he alleged that he had read all 3,000 pages of transcript, he had no knowledge that she was fired as a teacher without charges, or hearing REQUIRED BY THE STATUTE HE WAS REVIEWING! That he had no knowledge of the dates of her criminal acquittals (Charges #1, #5) which occurred before said charges were placed before the hearing "committee". [Transcript, Oct. 3, 1971] submitted to Illinois Appellate Court.

That likewise the Judges of the Illinois Appellate Court failed to rule on the merits of the case because they alleged that there was no evidence that the BOARD or JOSEPH P. HANNON knew that the Plaintiff was accusing him of misuse of funds in the $250,000 rehab of the Audubon School! (This Judgment of Solomon was rendered Feb., 1981—two years after a $550,000,000 disgraceful bankruptcy and JOHN CAREY's, JOSEPH P. HANNON's forced resignations).

Plaintiff refutes the Illinois Appellate Court:

1) She was charged (by HANNON) with attedance at a Board Meeting, Nov. 10, 1975 at which she criticized HIS MISUSE OF FUNDS for a $30,000 janitor's

(GAROFALO'S) office instead of a proper classroom for 45 kindergarteners. [Specifications #3, App. C-3]

2) That the Court Reporter's Record of the Board of Education Proceedings, Nov. 10, 1975 was read into the 3,000 page transcript, Sept. 22, 23, 1977.

3) That JOSEPH P. HANNON was present at that meeting, Nov. 10, 1975 and at a July 24, 1974 Board meeting at which Plaintiff criticized the extra payments to Raney-Harris for caving-in the Audubon Roof and $90,000 appropriation misuse of funds for "consultant fees" to ILLINOIS BELLI and BELLI (no-bid architects —See Brief, #81-1163, App. G) for "In-House" Heating Plant at the Audubon School. That Defendant Bessie Lawrence, former District Three Superintendent and Deputy Superintendent under JOSEPH P. HANNON, docked Plaintiff her pay for appearing at that Board Meeting to criticize HANNON's MISUSE OF FUNDS as Assistant Superintendent Facilities, Planning.

4) That 16 teachers and one black janitor testified to the proper dress of McCutcheon; the roof cave-in under JOSEPH P. HANNON; the $30,000 janitor's (Garofalo's) office through JOSEPH P. HANNON on Sept. 13-26, 1977 and such testimony is recorded in approximately 1,000 pages of the 3,000 page testimony that was unread by the Judges of the Court.

That Joseph P. Hannon, himself, testified on Sept. 26, 1977 that he had denied Petitioner due process of an E-1, E-2 notice; he defined such E-1, E-2 notice as a "51 day notice of firing". Such notice is required by the CONTRACT WITH THE CHICAGO TEACHERS UNION, AFL-CIO [which would have been compelled to represent her had any charges been brought against her

as a teacher] and the CHICAGO PRINCIPALS' ASSOCIATION, AFL-CIO, *Memorandum of Understanding.* Said copies of the *Memorandum* being supplied to the committee and the courts, five times because certain documents, detrimental to the Board and Hannon, were pirated by EARL B. HOFFENBERG, who replaced them with false documents, which caused Plaintiff to file a motion for Defendants to show cause why they should not be held in contempt of Court: SAID MOTION WAS NEVER HEARD BY JUDGES BECAUSE IT WAS BROUGHT AGAINST MICHAEL J. MURRAY, BROTHER OF JAMES C. MURRAY, Judge and COLLEAGUE of former City of Chicago Corporation Counsel, Judge Richard L. Curry; Warren Wolfson, denied federal appointment; George C. Higgins, and Judge John A. Nordberg—after Judge James C. Murray disqualified himself from ruling on this case: the motion before all Judges being filed against MICHAEL J. MURRAY, June-October, 1979.

The three-year delay by the Illinois Appellate Courts, following the year's delay by the Board Administrative Committee, which failed to "toll" any delay against themselves—including Sept. 19, 1977 Jewish Holiday for Earl B. Hoffenberg and the delayed production of documents, specifications, witnesses by Earl B. Hoffenberg—some never being produced—gave Defendants opportunity to harass, run Petitioner out of funds for lawyers by motions every week before the Court, which she was compelled to answer.

That Defendants also stirred up the school and Petitioner's home community; suppressed evidence of misuse of funds, suppressed perjury of witnesses testifying against Anabel J. McCutcheon; harassed and intimidated

a 94-year old former teacher, MARIE McCUTCHEON at her home in EVANSTON with a member of the "GOON SQUAD" and WILLIAM ROHAN, who tried to force entry into said home. [Feb. 8, 1977 p. 1007]

Perjury Suborned

GAROFALO: "I saw the principal's footprint on MORAN'S Pants." (9/12/77)

Garofalo testified in court Aug. 16, 1976 that he wasn't present. Plaintiff was acquitted of the charge on Aug. 17, 1976 and the State, GAROFALO, MORAN, and the BOARD were reprimanded by the Court for bringing such a frivolous charge.

COONEY (featherbedding fireman: man who shovels coal, summer, 1976, for a push-button gas fired furnace at the Audubon School): (9/14/77)
"She ducked under the counter to bring up a gun." Contrary to his testimony, April, 1976—Charge #1—"baseball bat"—Said criminal charge she was acquitted of by the Illinois Appellate Court, 9/13/77.

That this evidence was placed before Judge John A. Nordberg with page numbers and evidence that the THOMAS MORAN referred to was granted a job AFTER HE HAD FAILED THE CIVIL SERVICE EXAMS, April, 1976 along with the son of Defendant WILLIAM ROHAN—both white men, not of a minority group deserving of job placement.

Plaintiff was also denied confrontation, cross-examination of three witnesses named by Attorney MICHAEL J. MURRAY on Oct. 5, 1976: was denied the address and limited on cross-examination of all Board witnesses.

That Defendants also harassed parents and children; fired, demoted, and gave unfavorable transfers to teachers Laura Weiner, Nancy Gottlieb, Shirlee Weinberg, June

Palmer, who testified for Anabel J. McCutcheon and against Joseph P. Hannon.

That the Illinois Appellate Court Judges ruled without consideration of the merits of the case by ruling that Petitioner failed to prove lack of evidence—when said evidence was in her Brief and Argument by page number and date. She reproduced for the Court "Rules and Regulations Governing the Procedure for the Dismissal of Tenured Teachers in the State of Illinois, February, 1976" [App. C, p. 9a] which the attorneys for the Board alleged they did not have to follow BECAUSE THEY WERE IN CHICAGO and the laws did not apply to them.

That Defendants' private attorneys (81-1163) BROWN, HEINEKE before this Court in EEOC Title VII, #80-724, were permitted by the former City of Chicago Corporation Counsel, Judge George N. Leighton, to use this October 22, 1979 alleged "Res Judicata" to dismiss Board Defendants a second time, December, 1979 on the fraudulent claim: "Petitioner received unequal pay, 1971-1974 (EEOC charge) for her insubordination, 1975-1976"—said insubordination being created ipso post facto the reduction and unequal pay, 1971; and her civil suit, 1973 [73 Ch. 1355].

That Justice Daniel Ward of the Illinois Supreme Court also granted Defendants, extra time and special privileges, through their attorneys MICHAEL J. MURRAY, MICHAEL COHN (another "alter ego" who does not have to file an appearance in accordance with U.S. Supreme Court Rule #39 to represent Defendants at public expense). That said motion was presented to Justice Daniel Ward to strike Plaintiff's leave to appeal—after three months' deliberate delay. That said motion

was presented ex parte before only ONE JUSTICE OF THE COURT to deny Plaintiff due process and fair appeal. THAT SAID MOTION WAS NEVER SUBMITTED TO PLAINTIFF: NOR WAS IT BRIEFED TO ALLOW HER A REPLY.

This is the usual procedure of MICHAEL J. MURRAY to suppress the criminal theft of public funds, 1976-1981, misused by him in defense of employees Board of Education and HIMSELF, without mandatory statute #34-49 [Brief, 81-1163, pp. 7-8].

Is it mere coincidence or a conflict of interest of JUSTICE DANIEL WARD: That MICHAEL J. MURRAY alleges insurances contracts, 1976-1982 made by an insurance administrator, ROBERT WARD (U.S. Supreme Court Brief, 81-1163, p. 7 ff)? Said contracts never in any Board, Court Record until after Plaintiff's NOTICE OF APPEAL to the ILLINOIS SUPREME COURT. Said insurance company being nameless because said contracts are falsified after the filing of this COMPLAINT FOR ADMINISTRATIVE REVIEW and related federal suits.

Wherefore, Petitioner, woman non-attorney has been denied due process of a fair and impartial hearing, which any other tenured teacher-principal in the State of Illinois would have promptly (within 80-days of the statute) received from school boards, who have been deprived of their fair share of public tax funds by these excesses of misuse of state and federal tax funds to such extent that the Defendants could not pay teachers on December 21, 1979.

The statutes §34-85 and §24-12 of the Ill. Rev. Stat., 1975, cited on pages 9, 10 are unconstitutional for the reason:

That said statutes discriminate against a CHICAGO principal (Question I) and a Chicago teacher (Question II) denying her a fair and impartial hearing not denied to any other certified and tenured teachers in the State of Illinois or in the United States.

That the Court of Illinois failed to make any ruling on the length of the "hearing" over the 80-day statute; the length of the 3,000 page transcript—an unwarranted hardship, expense of an additional $3,000 to Petitioner: That said hearing of 15 sessions was deliberately and maliciously brought to harass Plaintiff—that EARL B. HOFFENBERG was consulted in administrative decisions; permitted to testify without being placed under oath; that four other attorneys testified (in the 3,000 pages) without being placed under oath; that MICHAEL J. MURRAY destroyed a pertinent document and testified falsely about same in support of the perjury of GERARD J. HEING, complaining witness, representative of Defendant Hannon promoted and overpaid $10,000 for his testimony and harassment of Plaintiff. The Courts denied Plaintiff due process by failing to accept her interpretation of the document Defendants could not produce as evidence of Plaintiff's failure "to follow payroll procedures" [#3].

That the Courts of Illinois denied Petitioner her due process rights of a public jury trial, not denied any Illinois or United States citizen criminarly charged as she was criminally charged (#1, #3, #5) by Defendants The Courts upheld the "guilty" verdict of the Board "Kangaroo Court" despite Plaintiff's acquittals by the criminal courts, five years' previously.

That the Illinois Supreme Court, by the ruling of one Justice, DANIEL WARD, approached ex parte by De-

fendants: denied Plaintiff a hearing on the unconstitutionality of the statutes—and the criminal charges brought for five years after her acquittal without benefit of a public jury trial, confrontation, cross-examination of witness.

Wherefore, Plaintiff requests the complete reversal of the original erroneous judgment order of Judge John A. Nordberg and her return to her status as a teacher and principal. Or in the alternate a fair and impartial hearing by the Illinois State Board of Education, or before the Illniois Supreme Court.

Plaintiff additionally requests punitive damages of $1.00 a day for each day beyond 80—of the statute—that Defendants have harassed and kept plaintiff from securing work in Illinois.

She requests that she be reimbursed for the legal costs entailed by all the litigation that Defendants initiated in the State and Federal Courts without statutory authority—and a federal investigation of the bribes, civil service jobs, overpayment of salary that she can document by public payroll, budget publications, IBM account sheets not destroyed because they are in her possession.

CERTIFICATE OF SERVICE

Pursuant to the U.S. Supreme Court Rule 12.1 the Petitioner is docketing this case on Jan. 12, 1982 within 60 days of the NOTICE OF APPEAL, and 90 days from the entry of the Judgment Order denying her leave to appeal. Petitioner hereby certifies that she mailed three copies to the attorneys of record, the ATTORNEY GENERAL (pursuant to the constitutionality of state statutes).

/s/ Anabel J. McCutcheon
Anabel J. McCutcheon

Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025
312-328-1630

Appendix

APPENDIX A

IN THE

CIRCUIT COURT OF COOK COUNTY, ILLINOIS

County Department — Law Division

No. 77 L 21626

Anabel J. McCutcheon,

Plaintiff,

vs.

Board of Education of the City of Chicago and Joseph P. Hannon,

Defendants.

ADMINISTRATIVE REVIEW JUDGMENT ORDER

This cause coming on for hearing before the Court upon the complaint of the plaintiff for review of a decision made by defendants, Board of Education of the City of Chicago (hereinafter referred to as School Board) in a certain proceeding before it (Board Report No. 77-271-3, dated Oct. 3, 1977) charging plaintiff with conduct unbecoming a principal in the Chicago Public Schools and failure to discharge duties and responsibilities as principal of the Audubon Elementary School, and upon the answer of said defendant consisting of the record of said proceeding the plaintiff appearing *pro se* and the defendants appearing by their counsel; and the Court having read the entire transcript of the administrative proceedings (2,844 pages) together with all of the exhibits (wherein plaintiff was initially represented by counsel) and all of the pleadings, motions, memoranda and materials filed in connection with this matter, the Court's extensive notes re the transcript (29 pages of court notes) and the eight (8) days of hearings of arguments (52 pages of court notes) and the presentations of the par-

ties; and the Court having read the authorities cited by the parties herein, and being fully advised in the premises:

Now, therefore, the Court makes the following findings of fact and law upon which its judgment herein is based:

1. The defendants acted within the scope of their authority and followed the statutory procedures required by law regarding the dismissal of plaintiff as a tenured principal who holds teaching certificates; and

2. The bill of particulars herein was adequate, and the plaintiff was not denied any relevant documents in the possession of defendants or their employees or agents which plaintiff requested and which were necessary for the preparation of plaintiff's defense to the charges.

3. The record here does not demonstrate or prove that the Trial Committee of the School Board was biased or prejudiced against plaintiff or subject to the control or domination by the attorney for the defendant, Joseph P. Hannon, so that the Committee or the Board were unable to render a fair and impartial decision or violated the rights of due process and equal protection guaranteed to plaintiff by the constitutions of the United States and the State of Illinois;

4. Plaintiff was not substantially prejudiced by the rulings of Chairperson Preston concerning admissibility of evidence and other matters relating to the hearings, and plaintiff's rights were not materially affected nor did substantial injuries result therefrom;

5. The plaintiff received a fair hearing within the requirements of both the Illinois law and constitution and the Constitution of the United States of America;

6. Competent evidence was introduced to support each of the findings on the charges against plaintiff, and the decision of the Board of Education to dismiss plaintiff from the service of the Board was not against the manifest weight of the evidence, there being substantial support in the record for its decision;

7. The evidence of insubordination and deleterious conduct of plaintiff, as well as the other matters testified to and the exhibits admitted into evidence at the hearing, constitute a sufficient basis for the Board of Education's decision to terminate plaintiff's employment;

8. There was competent, substantial evidence in the record to support the finding of irremediability by the Board of Education, and its decision thereon was not against the manifest weight of the evidence; and

9. The following decisional authorities, together with the applicable constitutional and statutory provisions cited by the parties including the Administrative Review Act and the School Code (i.e. Ill. Rev. Stat. ch. 122, 34-85, et.al), set forth the law applicable to this proceeding:

1. *Grissom* v. *Board of Education,* 75 Ill. 2d, 314 (1979).

2. *Gilliland* v. *Board of Education,* 67 Ill. 2d, 143 (1977).

3. *Alwurn* v. *Board of Education,* 67 Ill. 2d, 434 (1977).

4. *Carrao* v. *Board of Education of the City of Chicaco,* 46 Ill. App. 3d, 33 (1977).

5. *Morelli* v. *Board of Education,* 42 Ill. App. 3d, 722 (1976).

6. *Fender* v. *School District No. 25,* 37 Ill. App. 3d, 736 (1976).

7. *Flynn* v. *Board of Fire and Police Commr.,* 33 Ill. App. 3d, 394 (1975).

8. *Glover* v. *Board of Education,* 21 Ill. App. 3d, 1053 (1974).

9. *Rizzo* v. *Board of Fire and Police Commr.,* 131 Ill. App. 2d, 229 (1971).

10. *Robinson* v. *Community Migh School Dist. No. 7*, 35 Ill. App. 2d, 325 (1962).

10. *Robinson* v. *Community High School Dist. No. 7*, 35 App. 2d. 183, (1955).

12. *Joyce* v. *Board of Education of City of Chicago*, 325 Ill. App. 543, 60 N.E. 2d 431 (1945; Cert.den. 327, U.S. 786, 66 S. Ct. 702).

WHEREFORE, IT IS HEREBY ORDERED AND sion rendered by the defendant School Board in this proceeding, wherein plaintiff was dismissed from the services of the Board of Education of the City of Chicago, be, and the same is hereby affirmed.

ENTERED: Judge John A. Norberg
Oct. 22, 1979
Circuit Court

DATED: October 22, 1979

(No. 49063. — Judgments reversed.)

ROY AULWURM, Appellant, v. BOARD OF EDUCATION OF MURPHYSBORO COMMUNITY UNIT SCHOOL DISTRICT NO. 186, Appellee.

Opinion filed September 20, 1977.

1. *SCHOOLS—charges against a teacher not listed in a requested bill of particulars or in the original notice of charges may not be the basis for a dismissal for cause.* Section 24-12 of the School Code (Ill. Rev. Stat. 1973, ch. 122, par. 24-12) provides that written notice of charges must be served upon a teacher before those charges may be the basis of a dismissal for cause, and where a school board fails to include specific charges in a bill of particulars requested by a teacher or in the original written notice of charges against him, the board is precluded from basing a dismissal on those charges or considering evidence of them at the dismissal hearing. (Pp. 436-37.)
BEULAH E. JONES, Plaintiff-Appellee v. Dr. JOSEPH P. HANNON, General Superintendent of Schools of the City of Chicago *et al.*, Defendants-Appellants.

First District (3rd Division) No. 77-729

Judgment affirmed.

Opinion filed March 15, 1978.

3. SCHOOLS AND EDUCATION (§63.5)—*fact that board had consistently followed certain procedures held insufficient to establish that actions were sanctioned by statute.* That city board of education had consistently followed certain procedures did not establish that what board had been doing was sanctioned by statute.

(No. 50409.—Judgments reversed.)

RICHARD GRISSOM, Appellant, v. THE BOARD OF EDUCATION OF BUCKLEY-LODA COMMUNITY SCHOOL DISTRICT NO. 8 *et al.*, Appellees.

Opinion filed April 3, 1979.

8. SCHOOLS—*charges against a teacher must so apprise him of the alleged deficiency that he may refute the charges.* Charges against a teacher must be sufficiently specific to fairly apprise him of the alleged deficiency so that he may refute the charges. (P. 323.)

APPENDIX B

October 19, 1981

Ms. Anabel J. McCutcheon
1917 Tanglewood Dr., Apt. 3B
Glenview, IL 60025

No. 54963 — Anabel J. McCutcheon, petitioner, vs. The Board of Education of the City of Chicago, et al., respondents. Leave to appeal, Appellate Court, First District.

The Supreme Court today denied the petition for leave to appeal in the above entitled cause.

Very truly yours,
Clell L. Woods
Clerk of the Supreme Court

In The

Supreme Court Of The United States

From The Illinois Supreme Court

Anabel J. McCutcheon,

Petitioner

vs.

CHICAGO BOARD OF EDUCATION,
JOSEPH P. HANNON, Et. Al.

Respondents

COMPLAINT FOR ADMINISTRATIVE
REVIEW, *1976*
77 L 21626
78-1788
54963

NOTICE OF APPEAL

To: Michael J. Murray
ttorney For The Board
228 North LaSalle Street
Chicago, Illinois 60601
Clell M. Woods
Clerk Of The Supreme Court
State Of Illinois
Illinois Supreme Court Bldg.
Springfield, Illinois

Please take notice that I will appeal to the U.S. Supreme Court—the denial of Leave to Appeal a five-year old (limited to 80 days' duration by Illinois Constitutional Law, 1975: 122: 34-85) a Complaint for Administrative Review. This appeal is taken pursuant to 28 U.S.C. 2201, 2202.

ANABEL J. McCUTCHEON

Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025
312-328-1630
Nov. 14, 1981

APPENDIX C

ILLINOIS STATE BOARD
RULES AND REGULATIONS GOVERNING THE PROCEDURE FOR THE DISMISSAL OF TENURED TEACHERS IN THE STATE OF ILLINOIS

February, 1976
Reproduced
For Illinois Appellate Court
#79-1788

A. J. McCutcheon
Apt. 3B-1917 Tanglewood Dr.
Glenview, Ill. 60025

RULES AND REGULATIONS GOVERNING THE PROCEDURE FOR THE DISMISSAL OF TENURED TEACHERS IN THE STATE OF ILLINOIS

February, 1976

1. DEFINITIONS

1.01 "Tenured Teacher" means any teacher that has entered upon contractual continued service pursuant to School Code Section 24-11.

1.02 "Service" shall mean service of any document by personall service or by certified or registered mail, postage prepaid, to the individual's last known address.

1.03 "Parties" means the teacher against whom charges are brought and the school board bringing the charges.

1.04 "Board" refers to the local school board and not to the State Board of Education.

2. APPLICABILITY OF THESE RULES AND REGULATIONS

2.01 These Rules and Regulations apply to: (a) the dismissal of tenured teachers for "reason or cause" as delineated in School Code, Section 24-12, and (b) controversies arising under Section 24-11, par. 5.

2.02 These Rules and Regulations do not apply to:

(1) dismissal of non-tenured teachers;

(2) dismissal as a result of a decrease in the number of teachers employed;

(3) dismissal as a result of a discontinuance of a particular teaching service;

(4) dismissal of a teacher who attains retirement age.

3. INITIATION OF DISMISSAL PROCEEDINGS

3.01 Where the conduct which gives rise to the causes or reasons for dismissal is remediable the board must serve the teacher with reasonable warning in writing, stating specific causes which, if not removed, may result in termination.

3.02 In the event the grounds are not remediable or in the event the grounds are not remedied after proper warning the board must approve a motion for dismissal which contains specific grounds for dismissal.

(a) This motion must be approved by a majority of all the board's members.

(b) The teacher must be served with the notice of dismissal motion within 48 hours.

(c) Such notice shall inform the teacher that he/she has ten days from the date of the motion to request in writing that no hearing be scheduled.

3.03 Within ten days after the approval of the motion, the board shall schedule a hearing unless the teacher requests that no hearing be held.

(a) This hearing is to scheduled no less than 30 nor more than 60 days after the approval of the motion.

(b) After a hearing date is set a NOTICE OF DISMISSAL is to be served on the teacher and the State Board of Education within five days by the Secretary of the Board.

(c) The NOTICE OF HEARING sent to the State Board of Education must be accompanied by a certified copy of the board's motion and vote for dismissal.

(d) Within ten days after receiving the NOTICE OF HEARING, the State Board shall provide the local board of education and the teacher with a list of five prospective impartial hearing officers.

(e) Within five days after receipt of the list of impartial hearing officers, first the teacher and then the board or their authorized agents or attorneys shall alternately strike one name from the list until only one name remains. That person shall be the hearing officer.

(f) Within five days, the State Board of Education shall be notified of the person designated as hearing officer.

3.04 Written notice of the charges shall be served on the teacher at least 21 days before the hearing.

(a) This notice shall contain a bill of particulars.

(b) At the same time, a copy of said notice of charges and a bill of particulars shall be sent to the State Board of Education to be forwarded to the designated hearing officer.

3.05 The teacher, the board and the hearing officer may mutually agree upon the time and place of the hearing. If there is a dispute as to time or place, the hearing officer shall fix the time and place upon request made to the State Board of Education. If the hearing officer is fixing the

place of hearing it must be within the district's boundaries.

4. RULES AND REGULATIONS REGARDING THE APPOINTMENT OF HEARING OFFICERS

4.01 All hearing officers proposed by the State Board of Education shall possess the following qualifications:

(1) They must be accredited by a national arbitration association.

(2) They must be a non-resident of the school district involved in the hearing at the time of the hearing.

(3) They must be disinterested and impartial.

(4) They must have no financial or personal interest in the result of the hearing.

4.02 Notice of the appointment of the hearing officer shall be mailed to the hearing officer by the State Board of Education and the signed acceptance of the hearing officer shall be filed with the State Board of Education within five days of receipt of notice of appointment.

4.03 Upon notice of his/her appointment as a hearing officer, the prospective hearing officer shall disclose any circumstances which (s)he believes might disqualify him/her as an impartial hearing officer.

(a) Upon receipt of such information the State Board shall immediately disclose it to the parties.

(b) The parties may waive the presumptive disqualification.

(c) If either party declines to waive the presumptive disqualification, the State Board shall declare a vacancy.

4.04 If any hearing officer shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties or his/her position, the State Board shall, on proof satisfactory to it, declare the position vacant.

(a) Vacancies shall be filled in the same manner as that governing the making of the original appointment.

(b) Should the vacancy occur during the course of the hearing, the entire matter shall be reheared by the new hearing officer.

4.05 The State Board of Education shall pay the hearing officer a per diem of up to $250. Billing procedures shall be arranged on an individual basis between the State Board and the hearing officer.

4.06 All communication from the parties to the hearing officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board of Education.

5. SUSPENSION PENDING THE HEARING

5.01 If in the opinion of the board the interests of the school require it, the board may suspend the teacher pending the hearing.

5.02 If acquitted, the teacher shall not suffer the loss of any salary by reason of the suspension.

6. THE HEARING

6.01 The hearing shall be public at the request of either the board or the teacher. The hearing officer shall exclude witnesses during the testimony of other witnesses upon the motion of either party.

6.02 The parties may be present and represented at the hearing by counsel and by other authorized representatives.

6.03 The order of proceedings shall be as follows:

(1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the hearing officer and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions shall be heard at this time.

(2) Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements.

(3) The board shall proceed first to present its evidence.

(4) The teacher may confront the witnesses, offer evidence and present a defense.

(5) All testimony shall be taken under oath administered by the hearing officer.

(6) The hearing officer may issue subpoenas requiring the attendance of witnesses and, at the request of either of the parties shall issue such subpoenas but may limit the number of witnesses to be subpoenaed in behalf of either party to not more than ten.

(7) The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenotype notes of all the testimony. The State Board of Education shall pay for the attendance and services of the court reporter.

(8) Exhibits, when offered by either party, may be received in evidence by the hearing officer. The names and addresses of all witnesses and exhibits in order received shall be made a part of this record. The hearing officer shall make rulings on the admissibility of exhibits.

(9) The hearing officer for good cause shown may continue the hearing upon the request of the teacher or the board or upon his own

initiative, and shall adjourn when the teacher and the board agree thereto.

(10) The hearing may proceed in the absence of either party, who, after due notice, fails to be present or fails to obtain a continuance.

(11) A decision of dismissal shall not be made solely on the default of the teacher. The hearing officer shall require the board to submit such evidence as (s)he may require to an understanding and determination of the dispute, including but not limited to proof of due notice.

(12) The hearing officer may, in his discretion, vary the normal procedure under which the board first presents its claim, but in any case shall afford full and equal opportunity to all parties for presentation of relevant proofs.

(13) Upon the close of the hearing each party may make a closing statement (orally and/or written at the discretion of the hearing officer) incorporating arguments of fact and law.

6.04 Evidentiary Rules to be followed during the hearing shall be as follows:

(1) The parties may offer such evidence as they desire and shall produce such additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute.

(2) The hearing officer shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary.

(3) Objections to evidentiary offers may be made and shall be noted in the record. The hearing officer shall have the power to make rulings including the power to exclude evidence. "Offers of Proof" shall be permitted.

(4) Any hostile witness may be examined as if under cross examination.

(5) All documents not filed with the hearing officer at the hearing but which are arranged at the hearing or subsequently by agreement of the parties to be submitted, shall be filed with the State Board of Education for transmission to the hearing officer and other parties.

6.05 Before closing the hearing the hearing officer shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the hearing officer shall declare the hearing closed and a minute thereof shall be recorded.

7. THE DECISION

7.01 The hearing officer shall, with reasonable dispatch, make a decision in writing as to whether or not the teacher shall be dismissed. Such decision shall include findings of facts.

7.02 This decision should be rendered no later than 30 days from the date of closing the hearing.

7.03 A copy of the decision shall be given to the State Board of Education to be forwarded to both the teacher and the school board.

7.04 The decision of the hearing officer is final unless reviewed under the Administrative Review Act as provided in Section 24-16 of the School Code.

(a) If neither party appeals then either party desiring a transcript of the hearing shall pay for the cost thereof.

(b) In the event such review is instituted, any costs of preparing and filing the record of proceedings shall be paid by the board.

(c) The record of the hearing shall include:

1. all pleadings and exhibits;
2. a statement of matters officially noticed;
3. a transcript of the hearing;
4. the decision of the hearing officer.

APPENDIX C-1

Oct. 6, 1976

76-866-1

ADMINISTRATIVE HEARING

Now comes Anabel J. McCutcheon, by and through her attorneys, John B. Schwartz and Ronald S. Cope and hereby moves as follows:

1. That the following be provided her prior to trial: a list of the names and addressed of the witnesses, and all documents, memoranda, written statements and reports in the possession of Joseph P. Hannon, the Law Department of the Board of Education, Assistant Superintendent of Personnel, Dr. Gerald J. Heing, William Rohan, James G. Moffat, Bessie F. Lawrence or their agents or attorneys relating to the charges and specifications, against Anabel J. McCutcheon contained in the Notice of Suspension dated September 7, 1976, and the Specifications of September 15, 1976 and the letter of October 1, 1976 from the Law Department of the Board of Education.

2. That an impartial hearing officer or officers, other than members of the Board of Education and persons connected with the Board of Education, be appointed to hear the charges. That the failure to appoint an impartial hearing officer or officers is a denial of due process and equal protection guaranteed under the 14th Amendment of the United States Constitution and Section 2 of Article I of the Constitution of Illinois of 1970.

In addition, movant states that teachers and principals in all other school districts throughout the State of Illinois, other than the school district encompassing the

City of Chicago, are entitled to a hearing before an impartial hearing officer in connection with any disciplinary action. There is no rational basis for discriminating against this principal.

3. Movant further states that hearing officers appointed to hear disciplinary matters in other school districts are licensed attorneys who are trained in the law and have the legal knowledge to evaluate and rule on questions of evidence and law presented at said hearings. The present Committee of the Board of Education assigned to hear these charges is not so qualified.

4. That the Board of Education be required to employ outside legal counsel to advise the Board on questions of evidence at legal issues raised at these hearings. That the Board members are not so qualified as to rule on legal issues and questions of evidence and that any advice from the legal department of the Board of Education, which is in fact acting to persecute the charges—

—prosecute the charges, would be extremely prejudicial to the said Anabel J. McCutcheon and could not result in a fair and impartial hearing.

5. That Committee Member Henry McGee excuse himself from serving on the Committee in that the wife of said Committee member was a teacher in the Chicago public schools and was subject to evaluation by this principal Anabel J. McCutcheon and rereceived an unsatisfactory rating. This could be the basis for prejudice on the part of this Board member towards this principal.

6. That Specification No. 5 be stricken as having no basis in law, by reason of the fact that the Honorable Judge Nathan Englestein, in a hearing of criminal charges brought by Thomas Moran and the

People of the State of Illinois against Anabel J. McCutcheon, has decided on August 18, 1976, that no such battery or assault has, in fact, taken place.

Further that to retry that issue contained in Specification No. 5 is in violation of Anabel J. McCutcheon's rights under the United States Constitution and the Constitution of the State of Illinois of 1970.

7. That Specification No. 10 is vague and indefinite and contains subjective conclusions and Anabel J. McCutcheon is not able to respond to such Specification. This is likewise true of Specification No. 8.

8. That with regard to Specification No. 3, the charges contained therein are unsupported and unfounded and subjective conclusions, which have never been acted upon by the law enforcement agencies and that no notice of such charges was ever brought to the attention of Anabel J. McCutcheon.

9. That Anabel J. McCutcheon moves this Committee to suspend all proceedings against her until the final determination of her EEOC action brought against the Board of Education, District Three, has been resolved in the United States District Court and charges brought against the Chicago Board of Education and it divisions and agents in the Chancery Division of the Circuit Court of Cook County, No. 73 CH 1355. That the present action is brought against this this principal not because of the merit of any charges against her, but because of her action against the Board of Education as described above.

10. That at no time have documents in support of the charges and specifications ever been provided Anabel J. McCutcheon or her attorneys and she has thereby been denied her rights in due process under the United States Constitution and the Illinois Constitution of 1970.

11. That the Board of Education has failed to provide E-1 and E-2 Notices as to any of the charges as required by the statutes of the State of Illinois and the Rules and Regulations of this Board.

Wherefore, it is respectfully prayed that this Committee dismiss all of the charges brought against the said Anabel J. McCutcheon and reinstate her to her position of principal with full back pay.

APPENDIX C-2

Board of Education
City of Chicago
228 North LaSalle Street
Chicago, Illinois 60601

September 7, 1976

Miss Anabel J. McCutcheon
1917 Tanglewood Drive
Glenview, Illinois 60025
Dear Miss McCutcheon:

Pursuant to Section 34-85 of The School Code and Section 4-30 of the Rules of the Board of Education of the City of Chicago, you are hereby notified that you are suspended from your duties as the principal of Audubon Elementary School effective immediately pending trial before a Trial Committee of the Board of Education of the City of Chicago as provided by statute on the charges of conduct unbecoming a principal in the Chicago Public Schools and failure to discharge your duties and responsibilities as a principal in said school.

Your very truly,

Dr. Joseph P. Hannon
General Superintendent of Schools

JPH:MJM:pm
Miss Anabel J. McCutcheon
1917 Tanglewood Drive
Glenview, Illinois 60025

Received copy of the foregoing notice of suspension this ..... day of September, 1976.

.....
Anabel McCutcheon

APPENDIX C-3

To the Board of Education

of the City of Chicago

The General Superintendent of Schools

September 16, 1976

hereby makes the following charges against ANABEL J. McCUTCHEON, a principal in the Chicago Public Schools.

CHARGES

I charge ANABEL J. McCUTCHEON with conduct unbecoming a principal in the Chicago Public Schools and failure to discharge duties and responsibilities as principal of Audubon Elementary School.

SPECIFICATIONS

1. On September 12, 1975 Miss Anabel J. McCutcheon threatened to cause bodily harm with a baseball bat to Mario Garofalo, engineer-custodian, of the Audubon School.
2. Miss Anabel J. McCutcheon failed to present acceptable performance appraisal objectives for the 1975-76 school year despite suggestions, conferences, recommendations, and directives of her superiors to do so.
3. In the Spring of 1975 and on June 19, 1975, Miss Anabel J. McCutcheon was observed by employees of the Board of Education scantily and indecently attired in the Audubon Elementary School.
4. On November 10, 1975, Anabel McCutcheon failed to follow payroll procedures in that she claimed a day of illness leave (A) when in the afternoon she attend-

ed and spoke at the public portion of a meeting of the Board of Education.

5. On January 9, 1976, Miss Anabel J. McCutcheon kicked Tom Moran, Jr., the school janitor, in the buttocks.

6. Miss Anabel J. McCutcheon failed to follow a directive from the District Superintendent issue on February 2, 1976 ordering her to stop making recommendations on suspension forms of steps to be taken by parents such as spanking. She indicated such insubordination in a letter to Dr. Heing, District Superintendent, on February 4, 1976 and on February 11, 1976, she continued in her defiant and insubordinate manner.

7. Miss Anabel J. McCutcheon suspended two pupils for 19 days on February 11, 1976. The District Superintendent shortened the suspension to nine days in a letter to parents and principal dated February 18, 1976. Miss Anabel J. McCutcheon disregarded the direct order of her superior and ordered that the suspension for 19 days stand thereby being insubordinate and violating Board Rule 6-9 (Rev. 5/28/75).

8. Miss Anabel J. McCutcheon refused to send necessary personnel identification data to the office of District 3 and the Department of Teacher Personnel despite letters requesting the information from two District Superintendents and the Assistant Superintendent in charges of Personnel.

9. Miss Anabel J. McCutcheon refused to meet or cooperate with the Department of Field Auditors for the purpose of reviewing the audit report and recommendations of the Auditor completed on May 17 and 18, 1976 regarding improper bookkeeping procedures at Audubon Elementary School.

10. Miss Anabel J. McCutcheon has repeatedly failed to follow the recommendations, suggestions, and directives of her superiors for the improvement of her performance as a principal, has continued to be insubordinate, and has otherwise failed to correct her deficiencies and has exhibited such deleterious conduct towards personnel of the Chicago Board of Education that her conduct was, therefore, deemed to be irremediable.

APPENDIX C-4

Board of Education
City of Chicago
228 North LaSalle Street
Chicago, Illinois 60601

October 3, 1977

Miss Anabel J. McCutcheon
1917 Tanglewood Drive
Apartment 3B
Glenview, Illinois 60025

Dear Miss McCutcheon:

Enclosed is a certified copy of Board Report 77-271-3 adopted October 3, 1977 wherein the Board of Education approved and adopted the report of the Trial Committee recommending your dismissal from the service of the Board of Education of the City of Chicago.

Very truly yours,

Michael J. Murray
Attorney

MJM:EBH:dw
Enclosure
Certified Mail
Return Receipt Requested

APPENDIX D

EDITORIALS

1-year trial travesty of justice

Sept. 28, 1977 *Booster* "Editorials"

The year-long school board trial of Anabel McCutcheon is finally drawing to a close. A special committee heard the last of the testimony connected with the 10 charges filed against the suspended Audubon principal and all that remains is for that board to announce its verdict and recommendations.

Whether McCutcheon is acquitted or fired, we only hope a decision comes soon so the 58-year-old veteran principal can either resume her career or begin looking for work elsewhere.

Suspended since September of last year, she's already had to spend too much time in a kind of legal limbo where she hasn't actually been found guilty of any wrongdoing, but suffers the same stigma and loss of income as if she had.

Of course, schools Supt. Joseph Hannon was right in suspending her, once he filed the charges of poor performance and unprofessional conduct against her.

INACCURATE—SUSPENSION FIRST: THEN CHARGED

But the trial board didn't have to allow the proceedings to drag out for a year.

Ironically, it took less time for McCutcheon to win an appeal on a criminal conviction [1976] stemming from one of the charges filed against her—that she threatened a school janitor with a baseball bat—than it took for the trial board to rule on that same allegation. [1977]

During that time, incidentally, her attorney found it necessary to quit the case because he couldn't devote the necessary time to the trial board hearings without shirking his duties to other clients.

Even the recent trial of Patty Columbo and her lover didn't get that involved—and they were up for mass murder.

Innocent or guilty, McCutcheon is right on at least one point—she was victimized by the system.

Appendix

Office - Supreme Court, U.S.
FILED
FEB 5 1982
ALEXANDER L. STEVAS,
CLERK

No. 81-1316

In the

Supreme Court of the United States

OCTOBER TERM, 1981

ANABEL J. McCUTCHEON,

Petitioner,

vs.

CHICAGO BOARD OF EDUCATION,
MRS. CAREY B. PRESTON,
MARGE WILD,
HENRY McGEE,
MICHAEL J. MURRAY,
EARL B. HOFFENBERG,
JOSEPH P. HANNON,
NINA JONES,
JAMES MOFFAT,
BESSIE LAWRENCE,
WILLIAM ROHAN,
GERARD J. HEING,
MARIO GAROFALO,
THOMAS MORAN,

Respondents.

Appeal from the Illinois Supreme Court
Denial of Leave to Petition

SUPPLEMENTARY APPENDIX PREVIOUS OPINIONS
McCutcheon vs CHICAGO BOARD OF EDUCATION
COMPLAINT FOR ADMINISTRATIVE REVIEW

ANABEL J. McCUTCHEON, *Pro Se*
2653 Stewart Avenue
Evanston, Illinois 60201
312-328-1630

The Scheffer Press, Inc.—(312) 263-6850

Oral Argument Requested

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Exhibit "F"	November 21, 1979 Plaintiff's Direct Appeal to the Illinois Supreme Court	38a
Exhibit "G"	November 26, 1979 (Date of $550,000 Bankruptcy) Notice of Motion placed before the Court. [Motion was denied, but Plaintiff has no record]	40a
QUESTION III:	Plaintiff contends that she should have been granted Leave to Petition at this time 1979—and before accounting documents were submitted to the Legislative Investigating Committee.	
Exhibit "H"	Excerpt from 1977 Ill. Statute, §34-85 with principal insert.	41a
Exhibit "I"	*CHICAGO DAILY NEWS* Article of Plaintiff's Testimony to BOARD OF EDUCATION, STATE'S ATTORNEY, July 24, 1974 on which date she was docked her pay for such testimony by Bessie Lawrence—just as she was docked her pay on Nov. 10, 1975. (Charge #4)	42a

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Exhibit "J" — SUBPOENA in pro se suit for the "Payroll forms" allegedly not filled out correctly and for which Plaintiff was docked her pay. 43a

SAID COPIES OF SUBPOENA were pirated from the records six times: MICHAEL J. MURRAY (without being sworn in alleged that the record of Nov. 10, 1975 had been destroyed within the year and was not required to produce the "evidence" of the charge against McCutcheon).

Plaintiff charges that said form was destroyed because it was forged with her signature: she having the third carbon copy to prove forgery.

Exhibit "K" — Registered receipt of Dec. 21, 1977 of property list submitted to Mrs. John Preston, along with a complaint that three such lists were destroyed by HOFFENBERG. 44a

EXHIBIT "E"

NO. 79-1788

ANABEL J. McCUTCHEON,

Plaintiff-Appellant,

v.

THE BOARD OF EDUCATION OF THE CITY OF CHICAGO and JOSEPH P. HANNON,

Defendants-Appellees.

Appeal From The Circuit Court Of Cook County.

Honorable RICHARD L. CURRY, JAMES C. MURRAY, WARREN WOLFSON, GEORGE A. HIGGINS, JOHN NORDBERG, *Presiding.*

MR. PRESIDING JUSTICE ROMITI delivered the opinion of the court:

This appeal is brought from a judgment of the circuit court of Cook County affirming the administrative decision of the defendant Board of Education of the City of Chicago (the Board) dismissing plaintiff Anabel J. McCutcheon as a tenured principal. Plaintiff raises the following contentions in this court: (1) the Board improperly failed to appoint an independent hearing officer and also failed to properly notify plaintiff of the charges against her; (2) plaintiff was only tried and charged for conduct unbecoming a principal and therefore should have been retained as a teacher; (3) the circuit court erred in denying plaintiff's motion for restoration or just compensation for property allegedly confiscated by defendants; (4) plaintiff was denied her First Amendment right to criticize the Board.

We affirm.

On September 7, 1976 the plaintiff, who was employed by the Board as a principal at the Audubon School in Chicago, was notified that she was suspended pending a hearing on charges that she engaged in conduct unbecoming a principal and failed to discharge her duties and responsibilities as principal at the Audubon School. On September 16 plaintiff received a certified letter from the

Board notifying her that the charges had been filed against her with the Board by defendant Joseph P. Hannon, who was then the General Superintendent of the Schools. Included with the letter was a ten-point specification of charges, stating:

1. On September 12, 1975 Miss Anabel J. McCutcheon threatened to cause bodily harm with a baseball bat to Mario Garofalo, engineer-custodian, of the Audubon School.
2. Miss Anabel J. McCutcheon failed to present acceptable performance appraisal objectives, for the 1975-76 school year despite suggestions, conferences, recommendations, and directives of her superiors to do so.
3. In the spring of 1975 and on June 19, 1975, Miss Anabel J. McCutcheon was observed by employees of the Board of Education scantily and indecently attired in the Audubon Elementary School.
4. On November 10, 1975, Anabel McCutcheon failed to follow payroll procedures in that she claimed a day of illness leave (A) when in the afternoon she attended and spoke at the public portion of a meeting of the Board of Education.
5. On January 9, 1976, Miss Anabel McCutcheon kicked Tom Moran, Jr., the school janitor, in the buttocks.
6. Miss Anabel J. McCutcheon failed to follow a directive from the District Superintendent issued on February 2, 1976 ordering her to stop making recommendations on suspension forms of steps to be taken by parents such as spanking. She indicated such insubordination in a letter to Dr. Heing, District Superintendent, on February 4, 1976 and on February 11, 1976, she continued in her defiant and insubordinate manner.
7. Miss Anabel J. McCutcheon suspended two pupils for 19 days on Febru[illegible] 11, 1976. The District

Superintendent shortened the suspension to nine days in a letter to parents and principal dated Feb. ruary 18, 1976. Miss Anabel J. McCutcheon disregarded the direct order of her superior and ordered that the suspension for 19 days stand thereby being insubordinate and violating Board Rule 6-9 (Rev. 5/28/75).

8. Miss Anabel J. McCutcheon refused to send necessary personnel identification data to the office of District 3 and the Department of Teacher Personnel despite letters requesting the information from two District Superintendents and the Assistant Superintendent in charge of Personnel.
9. Miss Anabel J. McCutcheon refused to meet or cooperate with the Department of Field Auditors for the purpose of reviewing the audit report and recommendations of the Auditor completed on May 17 and 18, 1976 regarding improper bookkeeping procedures at Audubon Elementary School.
10. Miss Anabel J. McCutcheon has repeatedly failed to follow the recommendations, suggestions, and directives of her superiors for the improvement of her performance as a principal, has continued to be insubordinate, and has otherwise failed to correct her deficiencies and has exhibited such deleterious conduct towards personnel of the Chicago Board of Education that her conduct was, therefore, deemed to be irremediable.

Following a full evidentiary hearing on these charges before a trial committee appointed by the Board and composed of Board members the committee concluded that all the charges had been substantiated, that the conduct of the plaintiff was irremediable, and that there was sufficient cause to justify plaintiff's dismissal from employment with the Board. The trial committee therefore recommended that plaintiff be dismissed. The Board subsequently unanimously concurred in and adopted these recommendations and discharged the plaintiff.

Plaintiff then filed a complaint for administrative review in the circuit court of Cook County. That court, after full hearings and a complete review of the transcript of the proceedings before the Board, affirmed the decision of the Board.

On appeal to this court plaintiff has not attacked the sufficiency of the evidence adduced below in support of the charges against her. Accordingly we refer to that evidence only where necessary to dispose of the issues before us. Suffice it to say that we find that all the charges were substantiated by the evidence presented.

I.

Plaintiff first contends that the Board erred in not appointing an independent hearing officer to hear the charges against her and in not having given her a notice to remedy the charges prior to instituting dismissal proceedings. In support of her contention that an independent hearing officer should have been appointed plaintiff incorrectly relies on sections 24-11 and 24-12 of the School Code. (Ill. Rev. Stat. 1975, ch. 122, pars. 24-11, 24-12.) Section 24-12 does require appointment of an independent hearing officer to hear charges against a teacher, but as section 24-11 specifically states: "This Section [24-11] and Sections 24-12 through 24-16 of this Article apply only to school districts having less than 500,000 inhabitants." (Ill. Rev. Stat. 1975, ch. 122, par. 24-11.) The Board of Education of the city of Chicago is a school district which has a population exceeding 500,000 inhabitants and it is organized pursuant to Article 34 of the School Code. (Ill. Rev. Stat. 1975, ch. 122, par. 34 *et seq.*) At the time charges were instituted against the plaintiff section 34-85 provided in pertinent part:

> "No teacher or principal appointed by the board of education shall (after serving the probationary period of 3 years specified in Section 34-84) be removed except for cause, and then only by a vote of a majority of all members of the board, upon written charges presented by the general superintendent of

> schools, *to be heard by the board or a duly authorized committee thereof.*" (Ill. Rev. Stat. 1975, ch. 122, par. 34-35. (Emphasis added))

Thus the trial committee, which was a duly authorized committee of the Board, possessed the authority to hear the charges against the plaintiff. Section 34-85 has since been amended to provide for the appointment of an independent hearing officer in a manner similar to the provisions of section 24-12. (Ill. Rev. Stat. 1979, ch. 122, par. 34-85.) However we note that former provisions of section 24-12 (Ill. Rev. Stat. 1973, ch. 122, par. 24-12), under which school boards were authorized to perform the multiple functions of investigation, prosecution, and fact determination, have been upheld against due process challenges. *Grissom* v. *Board of Education* (1979), 75 Ill. 2d 314, 388 N.E. 2d 398, 26 Ill. Dec. 683; *Gilliland* v. *Board of Education* (1977), 67 Ill. 2d 143, 365 N.E.2d 322, 8 Ill. Dec. 84; *Morelli* v. *Board of Education* (1976), 42 Ill. App. 3d 722, 356 N.E.2d 438, 1 Ill. Dec. 312.

Plaintiff is also mistaken in her contention that the Board was required by statute to first advise her of the complaints against her so as to give her an opportunity to correct her deficiencies before removal proceedings were started. At the time these proceedings were initiated Section 34-85 of the School Code, which sets out the procedures for dismissing teachers and principals, stated in pertinent part:

> "Before service of notice of charges on account of causes that may be deemd to be remediable, the teacher shall be given reasonable warning in writing, stating specifically the causes which, if not removed, may result in charges." (Ill. Rev. Stat. 1975, ch. 122, par. 34-85.)

This statute was subsequently amended by Public Act 80-250, effective August 16, 1977, to provide that such warning was to be given to teachers "or principals" (Ill. Rev. Stat. 1977, ch. 122, par. 34-85), but no such requirement with respect to principals existed at the time these

proceedings commenced. Furthermore, even assuming that the statute applied to the plaintiff, such notice is required only when the cause for dismissal is remediable. Plaintiff complains that the finding of irremediability was initially made prior to the hearing and before any evidence was heard. But this is precisely the procedure contemplated by the statute, which necessarily requires such a preliminary determination by the Board in order that they may determine whether notice to remedy must be given. The Board has the discretion to determine remediability in the first instance, subject to confirmation at the conclusion of the hearing. *Fender* v. *School District No. 25* (1976), 37 Ill. App. 3d 736, 347 N.E.2d 270.

Plaintiff does not challenge the ultimate determination of the Board that the evidence established that her conduct was irremediable and we find no basis for overturning that determination. The test for determining whether a cause for dismissal is irremediable is whether damage has been done to the students, faculty or school, and whether the conduct causing the damage could have been corrected had the teacher been warned by her superiors. (*Gilliland* v. *Board of Education* (1977), 67 Ill. 2d 143, 365 N.E.2d 322, 8 Ill. Dec. 84.) Even when individual causes, considered in isolation, may be remediable, courts have found that a combination of a number of charges, and a showing of a continuous nature to the conduct, may provide a sufficient basis for a finding of irremediability. (*Gilliland*; *Glover* v. *Board of Education* (1974), 21 Ill. App. 3d 1053, 316 N.E.2d 534, *aff'd* (1975), 62 Ill. 2d 122, 340 N.E.2d 4.

The charges against this plaintiff, which we have found to be fully supported by the evidence, establish a pattern of disrespect for school policy and insubordination to school personnel in the face of repeated attempts to persuade her to follow established procedures and policy. We find that the repeated nature of this behavior, in combination with the other instances of physical threats and attacks on school personnel and inappropriate dress in the school constitutes a sufficient basis for the finding of irremediability.

II.

We find no merit to plaintiff's second contention, that she should have been retained as a teacher because the charges against her only related to her service as a principal. At the time these proceedings commenced plaintiff was employed as a principal and so the charges were necessarily restricted to her performance in that position. Plaintiff has cited no authority for her implicit contention that although fired as a principal she had a continuing right to employment as a teacher. Section 34-85 by its terms refers to removal of a principal *or* teacher and we find no basis for determining that the statute contemplates a two-step removal process for principals, first as principals and then as teachers. Ill. Rev. Stat. 1975, ch. 122, par. 34-85.

III.

Plaintiff also contends that the circuit court erred in denying her motion for restoration of or compensation for property allegedly confiscated by defendants. Under this general catergory plaintiff now seeks various items of personal property, accumulated sick leave, vacation leave, and other salary amounts allegedly due her. But she concedes that with one exception none of these matters were raised with the Board. This appeal has been brought under the authority of the Administrative Review Act. (Ill. Rev. Stat. 1975, ch. 110, par. 264 *et seq.*) Section 11 of that Act provides in pertinent part:

> "The hearing and determination shall extend to all questions of law and of fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court." (Ill. Rev. Stat. 1975, ch. 110, par. 274.)

Accordingly all plaintiff's claims not made a matter of record before the Board committee could not be subject to review by the circuit court and that court properly denied her motion. Furthermore, we are precluded from entertaining as questions for review matters not properly

presented to the circuit court for administrative review. *Heifner* v. *Board of Education* (1975), 32 Ill. App. 3d 83, 335 N.E.2d 600.

Plaintiff did raise before the Board and orally with the circuit court the question of items of personal property she contended had been removed from her school office. The committee requested from her a list of such items but this apparently was never produced by her. In any event we do not find this question to be relevant to the issue of plaintiff's discharge.

IV.

Plaintiff's final contention is that she was denied her First Amendment right to criticize the Board. This apparently relates to specification number 4, which we have quoted earlier, in which it was alleged that plaintiff failed to follow payroll procedures when she claimed a full day of illness leave when in fact she had utilized the afternoon of that day to speak at a Board meeting. The evidence at the hearing before the trial committee established that on a day for which plaintiff had claimed the full day's illness leave in order to care for a sick relative she had appeared in the afternoon at a public session of the Board and had made a presentation. Plaintiff's supervisor learned of this and refused to approve the absence form as filled out because a full day's paid absence was requested. Plaintiff now appears to contend that this constituted retribution for the criticism of certain school expenditures she had voiced at that meeting. However plaintiff has pointed to no evidence in the record supporting this theory. Accordingly, we fined no basis for determining that the failure to approve the full day's absence or the bringing of this charge related to that incident were efforts to interfere with plaintiff's exercise of her First Amendment rights.

For the foregoing reasons, the judgment of the circuit court is affirmed.

AFFIRMED.

JIGANTI and LINN, *JJ.*, concur.

EXHIBIT "F"

#52731

IN THE SUPREME COURT OF ILLINOIS
FROM THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

ANABEL J. McCUTCHEON,

Plaintiff,

v.

THE CHICAGO BOARD OF EDUCATION,
JOSEPH P. HANNON, Et. Al.,

Defendants.

No. 77 L 21626

COMPLAINT FOR ADMINISTRATIVE REVIEW
SUSPENSION PROCEDURES, #76-866-1
JUDGE JOHN NORDBERG

PLAINTIFF'S DIRECT APPEAL TO THE
SUPREME COURT

COMES NOW, ANABEL J. McCUTCHEON, on her own behalf, under the Civil Appeals Rule #302, and respectfully petitions this Honorable Court for permission to file a direct appeal of the ADMINISTRATIVE REVIEW JUDGMENT ORDERED [App. A, p. 1a] of the Circuit Court of Cook County, Illinois, Law Division for the reasons:

[QUESTION I, U.S. BRIEF, 81-1316]

1. That the aforementioned *Order* upheld a Chicago Board of Education Committee decision after an administrative hearing during which the Illinois Statutes* were declared invalid by said committee because they did not contain the word "principal" and therefore were not applicable to the Plaintiff's trial as a principal.

---

* [1976 §34-85, p.9 Brief; 1977, §34-85, Ex. H. p. 4a]

[QUESTION II, U.S. BRIEF, 81-1316]

2. That the aforementioned *Order* is general, vague and grossly in error in stating: "the dismissal of Plaintiff as a TENURED PRINCIPAL, who holds teaching certificates" because [App. A, p. 2a], Plaintiff was "dismissed from the service" [App. C-4, p. 25a] as BOTH TEACHER AND PRINCIPAL without any record or evidence of teaching certificates or "TENURED" ever being placed before the committee, which declared these items outside the ten specific charges as "irrelevant".

3. That on Oct. 3, 1979 the Reviewing Court refused consideration of Plaintiff's Authorities [App. C, pp. 9a following]: Dismissal Under Illinois Tenure Law and ignored her dismissal as a TEACHER WITHOUT CHARGES, TRIAL, and her rights as a TENURED PRINCIPAL to an INDEPENDENT HEARING OFFICER and an unbiased committee without members with personal and financial conflict of interests.

[QUESTION III, U.S. BRIEF]

Wherefore, Plaintiff petitions this Court for permission to file a direct appeal under Rule 302: the expeditious determination of this cause.

EXHIBIT "G"

(Letterhead of)

STATE OF ILLINOIS
OFFICE OF
CLERK OF THE SUPREME COURT
SPRINGFIELD

62706

November 24, 1979

Clell L. Woods
Clerk

Telephone
Area Code 217
782-2035

Ms. Anabel J. McCutcheon
1917 Tanglewood Drive
Apartment 3B
Glenview, IL 60025

In re: Anabel J. McCutcheon, appellant,
vs. The Chicago Board of Education,
and Joseph P. Hannon, et al.,
appellees. No. 52731

Dear Ms. McCutcheon:

This office has today received and filed as of November 21, 1979, your motion by appellant, pro se, for direct appeal to this Court under Rule 302 (b) concerning the above entitled cause.

The motion will be presented to the Supreme Court on November 26, 1979, and you will be advised of its disposition. [Denied]

The $25.00 statutory docket fee is now due and your early remittance will be appreciated.

Very truly yours,
/s/ Clell L. Woods
Clerk of the Supreme Court

CLW:gn

EXHIBIT "H"

Excerpt from P.A. 80-250 80th General Assembly

"TEACHERS-REMOVAL-SUSPENSION
Public Act 80-250
House Bill 0517

An Act to amend Section 34-85 to "The School Code" approved March 18, 1961, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly . . . to read as follows:

Sec. 34-85 [S.H.A. ch. 122, §34-85] Removal for cause—Notice and Hearing—Suspension

No teacher or principal appointed by the Board of Education shall (after serving the probationary period of 3 years specified . . ."

[Correction of U.S. Brief, page 9, 1976 statute—five lines from bottom of page]

". . . BEFORE SERVICE OF NOTICE OF CHARGES ON ACCOUNT OF CAUSES THAT MAY BE DEEMED REMEDIABLE, THE TEACHER *OR PRINCIPAL* SHALL BE GIVEN REASONABLE WARNING IN WRITING, STATING SPECIFICALLY THE CAUSES WHICH, IF NOT REMOVED, MAY RESULT IN CHARGES.

. . . This amendatory Act of 1977 takes effect upon its becoming a law. Approved and effective Aug. 16, 1977."

[Question I]

Plaintiff moved the Administrative Hearing Committee on Sept. 12, 1977 to dismiss the charges because said committee was without jurisdiction to continue under the old law against the "principal".

EXHIBIT "I"

CHICAGO DAILY NEWS

Wednesday August 14, 1974 15 Cents

TELL SCHOOL REPAIRS 'BEFORE OK'

By Thomas E. Sellers and Phillip J. O'Connor

A Chicago school principal has told investigators that $138,444 in rehabilitation work was started at her school 15 days before it was properly authorized. The Daily News learned Wednesday.

Contractors aren't allowed to start work on school projects until the Chicago Board of Education approves the construction, school officials said.

Anabel J. McCutcheon, principal of Audubon Elementary School, 3500 N. Hoyne, has turned over documents on the alleged irregularities to State's Atty. Bernard Carey's office, investigators said.

The Daily News revealed Tuesday that Carey is investigating alleged irregularities, including suspected kickbacks, in the school system's $250 million program to fix up old school buildings.

Miss McCutcheon told investigators that a heating company, Heatmasters, began to replace her school's boilers July 9. The Board of Education didn't approve the contract until July 24, official board records show.

The principal said she can supply pictures to substantiate her complaint.

She also pointed out that the $138,444 contract was about 53 per cent higher than the original $90,000 cost estimated by Board of Education officials.

Informants have told investigators that similar unauthorized work was started at other schools, it was learned.

Informants also have supplied evidence of alleged payoffs by contractors to officals in charge of processing

and approving work in the massive rehabilitation program, investigators said.

The Audubon documents, however, provided no evidence of alleged payoffs, Miss McCutcheon emphasized. They mainly pointed out that work had been performed before proper approval was received.

School board officials admitted to The Daily News that Heatmasters, 5257 W. Irving Park, had no authority to begin the work when it did. Officials who permitted the unauthorized work have been reprimanded, sources said.

Miss McCutcheon also appeared at a recent Board of Education meeting and complained that school officials weren't supervising the job adequately.

"We took this as authority to proceed," Gersten said. "We had to start then (July 9). If we didn't, the school might not have heat in time (for cooler weather)."

Other rehabilitation work at Audubon also has stirred up controversy.

Part of the school's roof caved in April, 1973, after workers piled up gravel in one spot on the roof during a roof-resurfacing job. The cave-in occurred on a Sunday, when no students or adults were in the school.

EXHIBIT "J"

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

Michael J. Sullivan, Director
Bureau of Payrolls
CHICAGO BOARD OF EDUCATION
228 N. LaSalle Street, Chgo.

OPTIONAL SERVICES FOR ADDITIONAL FEES
1. Shows to whom and date delivered — 15¢
With Delivery to addressee only — 40¢
2. Shows to whom, date and where delivered — 25¢
Not delivered to addressee only — 50¢
RESTRICTED DELIVERY (extra fee required) — 90¢

PS Form 3800 Apr. 1971 — NO INSURANCE COVERAGE PROVIDED— NOT FOR INTERNATIONAL MAIL (See other side)

No. 55-9068

SUBPOENA—SUBPOENA DUCES TECUM

COUNTY, ILLINOIS
First District
(Division) (District)

75 M1-45828

CHICAGO BOARD OF EDUCATION,
Defendant.

EXHIBIT J

SUBPOENA

To: Mr. Michael J. Sullivan, Director
Bureau of Payrolls
CHICAGO BOARD OF EDUCATION
228 N. LaSalle Street
Chicago, Illinois

YOU ARE COMMANDED to appear to testify before the Honorable Judge Presiding
in Room 1408, Chicago Civic Center, Chicago, Illinois on January 27, 1976,
at 9:30 a. m.

YOU ARE COMMANDED ALSO to bring the following:

1. Original and legible copy of Anabel J. McCutcheon "Causeof Absence" (Payroll Form #125)
July 24, 1974; September 15, 16, 17, 1975; November 10, 1975

2. Original and legible copy of Attendance Report, Payroll and Receipts for Automobile Reimbursements, District Three (Unit #0533) specifically for District Superintendent Dr. Gerard J. Heing; Principals Ronald Cestar, Karl Siewers, July, 1975. Auto Reimbursement Requested

in your possession or control.

YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

Witness, January 21, 19 76
Morgan M. Finley
Clerk of Court

Name
Attorney for Anabel J. McCutcheon
Address 1917 Tanglewood Apt. 3B
City Glenview, Ill.
Telephone 525-6937

I served this subpoena by mailing a copy to Michael J. Sullivan by certified mail
on January 21, 19 76 [illegible]

[illegible]

Signed and sworn to before
me January 21, 19 76
Notary Public

MORGAN M. FINLEY, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

EXHIBIT "K"

No. 875347

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO: Property Letter

STREET AND NO.

P.O., STATE AND ZIP CODE

POSTAGE	$ .17
CERTIFIED FEE	.60 ¢
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
RETURN RECEIPT SERVICE — SHOW TO WHOM AND DATE DELIVERED	.25 ¢
RETURN RECEIPT SERVICE — SHOW TO WHOM, DATE, AND ADDRESS OF DELIVERY	¢
RETURN RECEIPT SERVICE — SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
RETURN RECEIPT SERVICE — SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$

CONSULT POSTMASTER FOR FEES
OPTIONAL SERVICES

POSTMARK OR DATE

GLENVIEW, IL
DEC 19 1977
USPO

PS Form 3800, Apr. 1976

PS Form 3811, Nov. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered..... 15¢
   - ☐ Show to whom, date, & address of delivery.. 35¢
   - ☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
   - ☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery ..... 85¢

2. ARTICLE ADDRESSED TO:
MRS JOHN PRESTON
CHICAGO BEARS

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	875347	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE

4. DATE OF DELIVERY: DEC 21 1977

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

* GPO : 1974 O - 527-803